

ASSOCIATION OF STATE DRINKING WATER ADMINISTRATORS

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OEI Docket

Docket Number OEI-10010:FRL 6723-3

U.S. Environmental Protection Agency

401 M Street, SW

Washington, DC 20460

OEI Docket:

The Association of State Drinking Water Administrators (ASDWA) is providing the following comments on the proposed data standards for permitting and compliance/enforcement in response to a notice published in the October 4, 2001 *Federal Register* (66 FR 50644). ASDWA is the professional Association that represents the collective interests of the nation's state drinking water programs responsible for implementation of the Federal Safe Drinking Water Act.

Electronic Transfer of Data

ASDWA recognizes the potential benefits of the electronic transfer of data and the different activities underway related to the electronic transfer of data, such as the development of data standards by the Environmental Data Standards Council (EDSC), the continuing advancement of the National Environmental Information Exchange Network (NEIEN), and EPA's proposed electronic reporting and recordkeeping rule (commonly known as CROMERRR). Although ASDWA supports these activities, state drinking water programs do have some concerns and reservations about the electronic transfer of data.

The main concern of state drinking water programs is the mixed message as to whether requirements that relate to the electronic data transfer are voluntary or mandatory and the potential impact on state data systems if and when electronic transfer of data becomes mandatory. CROMERRR and the proposed data standards are presented as **voluntary** and only apply *if you chose to transfer data electronically*. However, once you chose to transfer data electronically, you trigger a slew of **mandatory** requirements that must be met. State drinking water programs are concerned that these mandatory requirements may deter some states from implementing electronic transfer of data due to the need to upgrade their data systems. States are also concerned that some existing transfer practices may not be allowed under the new paradigm and that they would be forced to revert to paper submissions.

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Enforcement & Compliance Docket
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State drinking water programs are also concerned about difficulties that might arise based on the differences between system-to-EPA reporting and system-to-state reporting. Forty-nine states currently have primacy that allows the state drinking water program, not EPA, to implement the provisions of the SDWA. As such, water systems submit drinking water monitoring results to the state and the state makes compliance determinations based on the data as well as decisions on the need for further action by the water system. States in turn only report violations to EPA. States do not currently report all parametric data. Thus, electronic transfer of data takes on a different meaning for state drinking water programs and water systems as electronic transfer of data as portrayed in CROMERRR and the proposed data standards really affect water system-to-state data transfer and not state-to-EPA data transfer.

However, EPA's Office of Ground Water and Drinking Water (OGWDW) is currently modernizing their computer systems and are undoubtedly designing the system with electronic transfer of data in mind. Additionally, state drinking water programs and OGWDW are currently debating EPA's need for all water system parametric data for rule oversight and for development of new rules. States are concerned that OGWDW will incorporate electronic transfer of data into their modernization process and state drinking water programs will need to adapt their data systems to use the pre-existing data standards, which would be resource intensive.

Another state drinking water program concern is the possibility of laboratories reporting drinking water quality data directly to EPA or other entities prior to state review of the data. This would include direct reporting to EPA through the Central Data Exchange (CDX). This concern is based primarily on the role the state drinking water program plays in ensuring the quality of data and using the data to make compliance determinations. States review sample results to ensure the quality of the data. This includes confirming that the samples were collected appropriately (e.g., time, location, etc.) and analyzed by a certified laboratory using certified methods as well as ensuring that the supporting information (e.g., system name, identification numbers, etc.) is accurate.

State drinking water programs also need the data to perform compliance determinations. Many state drinking water program computer systems are not currently capable of retrieving this data from a central location (e.g., the CDX) and such retrieval could be quite burdensome to the state. Also, states are extremely concerned that the public would have access to unqualified data that may need corrections and, if not qualified, could be open to misuse and/or misinterpretation. States need to have the opportunity to review the data, confirm the data and supporting information, and use the data to perform compliance determinations before the data can be made available to EPA and the general public.

EPA must carefully consider the implications if electronic transfer of data is to become mandatory. The associated cost to improve the computer systems in some state drinking water programs may be overwhelming and upgrading state drinking water computer systems to allow for transfer of all data could be cost-prohibitive in some cases. The issues of data quality and state use of data for making compliance determinations will also need to be addressed. States look forward to further exploring these concerns with EPA.

Development of Data Standards

ASDWA supports the development of data standards to allow for a "common vocabulary" for the electronic transfer of data that will help improve the quality of environmental data and the ability to share data. ASDWA also recognizes the benefits of using established data standards to develop standardized Data Exchange Templates (DETs) for use in exchange data via the Internet under NEIEN. However, state drinking water programs are concerned that current state data systems may not be designed to comply with these data standards and the cost to modify the systems may be quite high. Data standards must be designed to be flexible enough to accommodate existing state data systems and must be able to be revised accordingly. ASDWA commends EDSC for including provisions for the review of data standards and suggests that EDSC may want to review all existing data standards at such time as NEIEN or any other information network is established. Data standards may appear to be acceptable on paper, but may need to be revised once the data standards are actually put into use and "field tested."

Additionally, EDSC must be cognizant of the number of data elements included in a data standard. Each element included in the data standard adds additional burden to the state data programs, especially if the program needs to upgrade their computer systems. EDSC needs to be aware of this concern and carefully review each data element included in the data standards and the justification for including each element.

States drinking water programs have reviewed the proposed data standards and had the following specific comments. Some of the feedback is in response to the *Frequently Asked Questions* document prepared for each data standard.

Compliance Assistance Data Standard

State drinking water programs offer many different types of compliance assistance to water systems. ASDWA suggests that the compliance assistance data standard be expanded to incorporate these drinking water compliance assistance activities.

- Data Element 5, Client Type: The definition should include the following drinking water-related permissible values: *community water system (CWS)*, *non-transient non-community water system (NTNCWS)*, and *transient non-community water system (TNCWS)*
- Compliance Assistance Product Information: OEI should clarify if newsletters and training manuals are included in this category. OEI must consider the burden of including these products as some state drinking water programs issue newsletters bimonthly or quarterly.
- Data Element 13, Compliance Assistance Activity Type: State drinking water programs are required to perform sanitary surveys at water systems on a routine basis. A sanitary survey is an on-site review of the water sources, facilities, equipment, operation, and maintenance of a public water system for the purpose of evaluating the adequacy of the facilities for producing and distributing safe drinking water. OEI should add a permissible value that includes routine, required visits.

- Data Element 19, Compliance Assistance Activity: OEI should add the following permissible values: *routine activity* (for activities such as required sanitary surveys) and *training*.
- Data Element 20, Client Visit Purpose: The permissible values and the note section need to be expanded to include routine activities such as sanitary surveys as discussed previously.
- Data Element 22, Event Topic: OEI should add the following permissible value: *training*.
- Data Element 29, Follow-up Method: OEI should add the following permissible value: *improved compliance*.
- Data Elements 30-43: Providing the information for these data elements will be extremely difficult for state drinking water programs to compile and complete. Making these data elements mandatory would be unacceptable.

Enforcement/Compliance Data Standard

In the drinking water program, “compliance monitoring” refers to water samples collected to ascertain compliance with drinking water standards. These samples can be taken by the water system, state personnel, or a third party, depending on the individual state. The Enforcement/Compliance Data Standard uses the term “compliance monitoring” in a different context. If OEI intends to include compliance monitoring conducted in the drinking water program in this data standard, the data standard would need to be further expanded to better reflect drinking water “compliance monitoring.”

- Data Element 14, Violation Determined Date: EPA and states are currently working together to determine how to accurately portray violation determination dates for violations under the SDWA. The data standard needs to be flexible enough to incorporate the final determination.
- Data Element 15, Violation Class Type: Reporting a group of violations as “Significant or High Priority” based on a single violation will be misleading and may lead to misinterpretation of the actual number of “Significant or High Priority” violations. ASDWA suggests that OEI reconsider grouping of different severity violations. In addition, as written, these class types have no equivalent in the drinking water program.
- Data Element 15, Violation Class Type: OEI should consider the need to add “Low Priority” for minor violations as a permissible value.
- Enforcement Action General Information: EPA and state drinking water programs are working together to ensure that all drinking water enforcement actions can be linked to a violation. OEI should ensure that this data standard does not undermine this collaborative effort to prevent “orphan” enforcement actions.

- Data Element 31: Enforcement Action Type: Although the data standard includes numerous permissible value options, OEI must recognize that different state drinking water programs have different names and meanings for the different enforcement action types. What is considered a "Notice of Violation" in one state may be a "Letter to Regulated Entity" in another. ASDWA recognizes that the purpose of this data standard is to establish a common vocabulary, but OEI must understand that not all state drinking water programs may be able to convert to this common vocabulary and the possible consequences of having different definitions.
- Data Element 33: Enforcement Action Status: Not all state drinking water programs manage the status of their enforcement actions to this level of detail. States are concerned that someone may misinterpret this lack of coding to mean that all enforcement actions are still open. OEI must consider this concern when determining how the data is presented.
- Data Element 35: Enforcement Action Resolution Type: OEI should add a permissible value that would allow for reporting of less formal resolutions.

Enforcement/Compliance Data Standard Question and Answer Document

- Questions 7, 8, and 9: The responses to these questions illustrate the mixed message that EPA is sending on the electronic transfer of data. The actions are presented as voluntary, but then appear mandatory if you chose to transfer data electronically.
- Question 14: EDSC must recognize that the data needs will not be the same across all programs. What is needed for the air program may not be the same as what is needed for the drinking water program or the hazardous waste program. Data standards should not "influence the data EPA seeks from States" as the response to the question suggests. The data EPA seeks from states, as well as the electronic transfer of data between other parties, should be based on the data needed. Every additional data element that is requested or required places an additional strain on an already overburdened data program in each state.
- Question 21: OEI should be careful about bounding the list of permissible values for a data element. Implementers should have the opportunity to add permissible values when needed. This will help ensure that the data is accurate and prevent misinterpretation of the data.
- Questions 22 and 26: States are concerned about the limitations that may be placed on state data systems as a result of the data standard. Question 22 relates to the need to use the same unit of measure as defined in the data standard and Question 26 relates to possible limitations in field size for a data element. Both of these issues could result in a need to redesign a program's computer system, which could be extremely costly.

Permitting Data Standard

In general, state drinking water programs may issue two types of permits: permits to construct and operate potable water works facilities; and permits for monitoring requirements. Some state drinking water programs may issue additional types of permits.

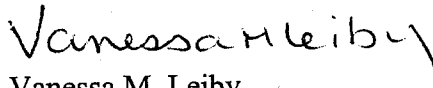
- Data Element 9, Program Name: OEI should add *Public Water System Supervision (PWSS)* as a permissible value.
- Data Element 10, Permit Type: OEI should add the following permissible values: *PWSS-Construction, PWSS-Operation, PWSS-Construct and Operate, and PWSS-Monitoring.*
- Data Element 12, Permitted Feature Type: OEI should add the following permissible values: *Well, Surface water intake, Treatment plant, Storage facility, and Distribution system.*

Permitting Data Standard Question and Answer Document

Please refer to our comments on the Enforcement and Compliance Question and Answer Document, as the comments on that document would also apply to this document.

ASDWA and the state drinking water programs look forward to continuing to work with EDSC and EPA to further develop electronic transfer of data capabilities. Any questions or concerns regarding these comments can be directed to my attention at (202) 293-7655.

Sincerely,



Vanessa M. Leiby
Executive Director

c: Chuck Job, OGWDW
Jeff Bryan, OGWDW
William A. Sonntag, OEI

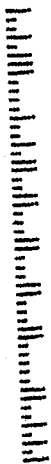
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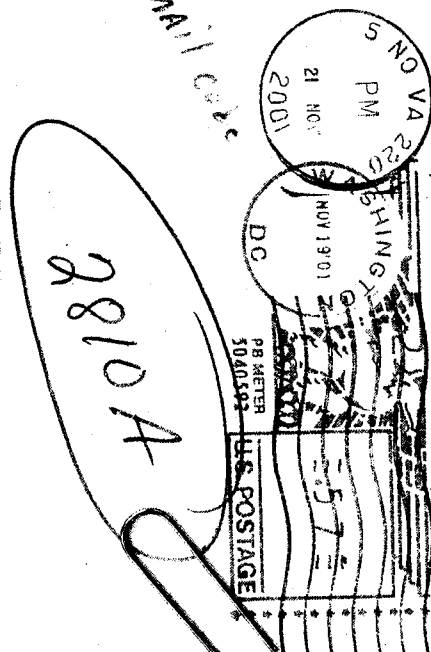


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Date: January 7, 2002
To: Lee Carothers
OECA
From: Constance Downs
OEI/OIC
260-2875
Re: Comments for OECA Docket

Lee,

I am enclosing comments from the Association of State Water Drinking Water Administrators for the OECA Docket. I would be grateful if you would ensure these get included.

Thank you.

Constance Downs